

1 PATRICK PORGANS
2 PORGANS AND ASSOCIATES
3 P.O. Box 60940
4 Sacramento, CA 95860
5 (916) 543-0780 Office
6 (916) 833-8734
7 Email: pp@planetarysolutionaries.org

8 BEFORE THE
9 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

10 **CALIFORNIA STATE WATER**
11 **RESOURCES CONTROL BOARD**
12 HEARING IN THE MATTER OF
13 CALIFORNIA DEPARTMENT OF
14 WATER RESOURCES AND UNITED
15 STATES BUREAU OF RECLAMATION
16 REQUEST FOR A CHANGE IN POINT
17 OF DIVERSION FOR CALIFORNIA
18 WATER FIX

19 MOTION TO STRIKE DWR
20 RESPONSES TO PATRICK
21 PORGANS/ASSOCIATES' CROSS-
22 EXAMINATION QUESTIONS

23 Patrick Porgans, principal of Porgans/Associates ("Porgans/Associates") now moves
24 to strike the Department of Water Resources' ("DWR") responses to Patrick Porgans
25 and Associates Cross-examination questions, on the following grounds:

- 26 (1) The answers appear to come from DWR's attorneys, not DWR's Panel 2
27 witnesses, as requested. The answers are not signed, and there is no
28 indication of the individual who produced the answers. It is my understanding
that DWR's attorneys are not testifying in this proceeding; or are they?
- (2) The answers are nonresponsive. DWR's attorneys made objections to the
Porgans/Associates questions, and then rephrased the questions. The
questions DWR's attorneys answered are not the ones presented by
Porgans/Associates, which raises questions as to DWR's motive(s)!

1 (3) DWR's answers are evasive. Below are examples for the first four questions.

2 Question (1.) Porgans/Associates asks "What studies, if any, have been
3 done by the DWR or its' panel of experts on Delta smelt near extinction?" This
4 question simply requests information on studies of Delta smelt near
5 extinction. If DWR's fish experts' are not familiar with or did not do any
6 studies on Delta smelt near extinction, they can so state.

7 Question (2.) Porgans/Associates asks "What studies, if any, have been
8 done by the DWR or its' panel of experts on Delta winter-run Chinook salmon
9 declining populations?" This question is not "vague and ambiguous as to
10 'studies.'" DWR's fish experts should be able to understand what 'studies'
11 mean.

12 Question (3.) Porgans/Associates asks "Were any of the panelist involved
13 in conducting studies as to why the 1992 Central Valley Project Improvement Act
14 (CVPIA) Section 3406 (b)(1) Anadromous Fish Restoration for doubling salmonid
15 populations failed?" simply request information on studies of why the salmon
16 doubling goals have not been met. If DWR's fish experts' are not familiar with
17 or did not do any studies on CVPIA salmon doubling goals, they can so state.

18 A). Were there any studies regarding the failure of the Fish-Doubling Goals
19 submitted as exhibits and accepted into evidence by the Hearing Officers ruling?
20 If so, please provide the exhibit number and the date of the CWF ruling. (See
21 Attached File - Source of Graph USFWS: CVPIA Anadromous Fish Restoration
22 Program – Note, to Hearing Officers, Graph for illustration purpose only).

23 Question (4.) Porgans/Associates asks "Was ICF or any other panelist a
24 consultant for either the Bureau of Reclamation or the DWR for the 2016 re-
25 initiation of consultation for the long-term Operations Criteria and Plan (OCAP)?
26 If so, please explain ICF's or the panelist's level of involvement in the operating
27 criteria for the long-term OCAP." DWR objects that "The re-initiation relates to
28 the existing 2008/2009 BiOps and not the CA WaterFix and its BiOps."

The February 14, 2017 Meeting Minutes from the CVP and SWP Stakeholder
Kickoff Meeting for the Re-initiation of Consultation on the long-term OCAP
(Exhibit DDJ-228) state:

Reclamation has not defined the exact approach to this Reinitiation of
Consultation; however, there is a basic assumption that if the Project
period extends to 2070, then WaterFix may be operable and this Project
would have to consider/model according to WaterFix impacts on CVP-
SWP." (R.T. March 1, 2018, 170:17-24.)

Kristin White stated on cross-examination, "I think this statement is probably
still appropriate." (R.T. March 1, 2018, 171:12-13.)

1
2 **STATEMENT OF SERVICE**

3 **CALIFORNIA WATERFIX PETITION HEARING**
4 **Department of Water Resources and U.S. Bureau of Reclamation (Petitioners)**

5 I hereby certify that I have this day submitted to the State Water Resources Control
6 Board and caused a true and correct copy of the following document(s)

7 **MOTION TO STRIKE DWR RESPONSES TO**
8 **PATRICK PORGANS/ASSOCIATES' CROSS-EXAMINATION QUESTIONS**

9 to be served by Electronic Mail (email) upon the parties listed in the Current Service List for
10 the California Water Fix Petition Hearing, dated 6 March 2018, posted by the State Water
11 Resources Control Board at

http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml

12 *Note: In the event that any emails to any parties on the Current Service List are*
13 *undeliverable, you must attempt to effectuate service using another method of service, if*
14 *necessary, and submit another statement of service that describes any changes to the date*
15 *and method of service for those parties.*

16 I certify that the foregoing is true and correct and that this document was executed on
17 9 March 2018.

18 Signature: **X Patrick Porgans**

19 Name: Patrick Porgans
20 Title: Principal/Solutionist Porgans/Associates

21 Address: P.O. Box 60940
22 Sacramento, CA 95860